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COMMITTEE AGAINST TORTURE

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SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 515th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 7 May 2002, at 3 p.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.515/Add.1.

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Conclusions and recommendations concerning the fourth periodic report of Sweden (CAT/C/55/Add.3; CAT/C/XXVIII/Concl.1)

1. At the invitation of the Chairman, Mr. Molander (Sweden) took a place at the Committee table.

2. Mr. YU Mengjia, speaking on behalf of the Country Rapporteur, who had been unable to attend the meeting, read out the Committee's conclusions and recommendations concerning the fourth periodic report of Sweden (CAT/C/55/Add.3).

3. Mr. MOLANDER (Sweden) expressed his delegation's satisfaction with the constructive and fruitful dialogue that it had held with the Committee in their joint search for further improvements in the protection of individuals from torture and other cruel, inhuman or degrading treatment or punishment. His Government would study carefully the Committee's conclusions and recommendations and describe its follow-up in its next report to the Committee.

4. He wished, however, to take issue with one item in the section entitled Subjects of concern, namely, the allegation in paragraph 6, subparagraph (c), that police personnel were reported to have killed three persons in the Göteborg riots. He informed the Committee that no one had been killed during those riots, either by the police or by rioters; one rioter had been shot but was still alive. As the allegation was unsubstantiated, he asked that it be removed from the conclusions and recommendations.

5. The CHAIRMAN assured the representative of Sweden that the allegation would be checked and, if it were found to be unsubstantiated, removed from the Committee's conclusions and recommendations. Thanking the Swedish delegation for its cooperation, he drew particular attention to paragraph 4 of the Committee's conclusions and recommendations, which emphasized its satisfaction with the country's steadfast commitment to human rights.

6. Mr. Molander (Sweden) withdrew.

Fourth periodic report of Norway (continued) (CAT/C/55/Add.4)

7. At the invitation of the Chairman, the members of the delegation of Norway took places at the Committee table.

8. Mr. WILLE (Norway) said, with regard to the implementation of article 1 of the Convention, that work was under way to amend the Criminal Code so as to prohibit and penalize torture and other cruel, inhuman and degrading treatment in a single statute, based on article 1.

9. In response to the request for further information on investigation activities under article 2, he said that the working group on investigations procedures by the special investigative bodies, referred to in paragraph 8 of the report, had concluded that an investigation should have been opened in an additional 6 per cent of all the cases under consideration; that the percentage of dropped cases - some 95 per cent - was a bit too high; and that the aggrieved party had been questioned in only 42 per cent and the policeman concerned in only 83 per cent of the cases under consideration. The working group's report had been circulated for comments by June 2002 and the Ministry of Justice would then decide whether it should lead to legislative amendments or other measures.

10. He confirmed that asylum-seekers were given information, both orally and in writing, about their rights and the remedies available to them and described other measures in place to ensure that they were fully aware of their rights and able to exercise them. He also described the training measures for personnel at reception centres and confirmed that particular attention was given, in such training, to unaccompanied minors and single women.

11. With regard to the question about asylum-seekers who committed criminal acts and whether they were separated, he said that measures were adopted to speed up the processing of their applications and that special reception centres were being set up for asylum-seekers with manifestly ill-founded applications.

12. Turning to the issue of the right of review of sentences and Norway's reservation to article 14, paragraph 5, of the International Covenant on Civil and Political Rights, he said that the reservation had been partly withdrawn in 1995 and read out the current version thereof. He also explained that the Court of Impeachment, which was based on a provision in the Constitution, was currently under review and might be abolished.

13. With regard to the issue of the use of force in psychiatric care, he drew attention to paragraph 37 of the report, describing new legislation designed to strengthen the human rights of patients and to ensure that health personnel were qualified to meet the needs and respect the rights of patients. While it was still too early to measure the effect of those new statutes, a system was being developed for the purpose, through inter alia the compilation of relevant statistics.

14. Ms. ØIE (Norway) took up the issue of solitary confinement, explaining that, under the current arrangements, the police had the power on the basis of a court order restricting the visits and mail entitlements of persons in custody, to order such persons to be held in solitary confinement. Parliament was currently considering a proposed amendment to the Criminal Procedure Act, designed to reduce the use of solitary confinement and to tighten controls on its use. Under the proposal by the Government, solitary confinement would have to be subject to an explicit authorization by a court; could be imposed only if there was a risk of the prisoner interfering with evidence; and could not be applied if it were disproportionate to the nature of the offence.

15. She also drew the Committee's attention to the guidelines issued by the Director-General of Public Prosecutions, contained in annex 6 to the report, which proscribed the use of coercive measures to exact statements or information from accused persons and reaffirmed the right of accused persons to remain silent.

16. The Government had also proposed time limits for the imposition of solitary confinement, which could not exceed six consecutive weeks for prisoners serving sentences of less than six years and, barring exceptional circumstances, 12 consecutive weeks for those serving sentences of more than six years. No under-age detainee could be isolated for more than eight consecutive weeks. She explained the formulas used for deducting periods spent in detention, including solitary confinement, by persons remanded in custody from any sentences subsequently imposed on them.

17. On the issue of partial isolation, she described the new rules proposed by the Government, whereby detainees could not be held in complete isolation if partial isolation was sufficient, and plans, under consideration by the Ministry of Justice, to establish separate units in the prisons for partial isolation.

18. With regard to the use of evidence obtained by torture, she reiterated that the use of torture in interrogations was prohibited by the Constitution and punishable under the Criminal Code. In addition, the use of promises, threats or coercion during examinations was prohibited. While there were no corresponding provisions relating to witnesses, there might be situations in which the prosecution was barred from invoking otherwise admissible evidence. The Government would, however, consider amending the Criminal Procedure Act to extend the ban on the use of threats or coercion during examinations to witnesses also.

19. Ms. WIDSTEEN (Norway) said, on the issue of the detention of remanded prisoners in police establishments, that the guidelines described in paragraphs 53 and 54 of the report had since been given prescriptive force by the Government. With regard to the right of detained persons to notify a third person of their arrest and their right of access to a lawyer, she referred to the relevant guidelines issued by the Director-General of Public Prosecutions, contained in annex 4 to the report. According to those guidelines, arrested persons must be asked whether they wished a member of their household or another person to be notified of their arrest, and, if so, such notification must be made within two hours after the person had been brought to the police station. Notification could be postponed only if it might significantly prejudice the police investigation of the case.

20. According to the guidelines, persons charged with an offence must be permitted to contact a lawyer not later than two hours after the arrest and the action taken on the request must be registered. Under section 94 of the Criminal Procedure Act, accused persons were entitled to the assistance of a lawyer of their choosing at every stage of the proceedings, but entitlement to a defence lawyer paid by the State commenced only after remand proceedings had begun. A bill currently before Parliament would strengthen the right of access to a lawyer by allowing any person in custody the right to a legal aid counsel if he/she was to be held for more than 24 hours.

21. A circular issued by the Ministry of Justice in 2000 set out guidelines for providing access to necessary medical care not later than two hours after a person had been detained in police custody, and the action taken on the detainee's request for medical care must be registered.

22. Only two prison officials had been convicted of sexual abuse of prisoners in the past five or six years, and one of those cases had involved the voluntary consent of the female inmate. Her delegation was not aware of any research on sexual abuse in prisons. Complaints of sexual abuse were reported to the police, who conducted an investigation that might call for criminal proceedings and dismissal of the officer involved, as well as compensation to the victim under one of two relevant laws.

23. There were no statistics on the ethnic background of prisoners. The policy was to register them only according to nationality, since the Government believed that statistics on ethnicity could be misused.

24. As for the proportion of women among public officials, on the one hand, and among those exposed to misconduct by public officials, on the other, 9 per cent of inmates were women, while approximately 40 per cent of police and prison staff and approximately 32 per cent of judges at all court levels were women. Traditionally, there was a high percentage of women working in the health sector, although there were no statistics for those working specifically in psychiatric institutions or in reception centres for asylum-seekers and refugees; there were statistics indicating that women represented 53 per cent of psychiatric patients and approximately 30 per cent of those living in asylum and refugee centres.

25. Mr. WILLE (Norway) said that sexual violence in prisons among prisoners had not proven to be a problem, probably because prisoners were kept in single cells in small units with a high degree of surveillance by a large number of staff.

26. His delegation had made available to the Committee a copy of the Plan of Action for Human Rights, and a brochure on the subject. An inter-ministerial committee had been set up to monitor the implementation of the Plan of Action, which covered the period up to 2005 and set out over 300 specific measures to improve the human rights situation in the country.

27. Mr. EL MASRY, noting that the Government had proposed revisions to the Aliens Act in response to Security Council resolution 1373 (2001) and had, in the process, referred to the binding nature of Security Council resolutions and the fact that they overrode other international commitments, asked how a Security Council resolution could be considered to take precedence over an international convention.

28. The CHAIRMAN said that the delegation might wish to reply to that question subsequently and in writing.

29. Ms. GAER said, with regard to the Norwegian authorities' reluctance to register prisoners according to ethnic background, that the Government might wish to reconsider that position because, in a country with such a vigorous complaints system, it might be an instructive

way of determining whether punishment was, in fact, being meted out differently according to the prisoners' ethnicity. She asked for clarification as to why it was felt that such documentation could be misused.

30. The CHAIRMAN observed that Ms. Gaer's question stood at an interesting intersection of conflicting principles. Characterization by ethnicity was considered by Norwegian Government - for the best possible moral reasons - as liable to engender undesirable institutional responses; it had therefore chosen not to record such statistics. From the point of view of the public policy of the State, however, the availability of good statistical data on ethnicity revealing overrepresentation or under-representation in certain respects would enable the State to take any necessary remedial action. It was a dilemma that always gave pause.

31. The limited number of questions put to the Norwegian delegation and its lively interaction with the Committee were evidence of Norway's significant commitment to human rights.

The public part of the meeting rose at 4.05 p.m.